

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE: Donald Seay
Charlotte Ann Seay**

BANKRUPTCY NO. 20-02191-NPO

BankPlus

Movant

vs.

**Donald Seay and Charlotte Ann Seay and
Harold J. Barkley, Jr., Chapter 13 Trustee**

Respondents

MOTION FOR RELIEF FROM STAY AND FOR OTHER RELIEF

BankPlus moves the Court for relief from stay and for other relief as follows:

1. On August 17, 2020, Donald Seay and Charlotte Ann Seay (“Debtors”) filed a petition for bankruptcy pursuant to Chapter 13 of the United States Bankruptcy Code. This Court has jurisdiction over the parties and subject matter to this motion pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 554, 362, and 363. This is a core proceeding pursuant to 28 U.S.C. § 157 (b) (2) (A), (G) and (O).

2. On January 16, 2015, Donald Seay (“Seay”) executed a Promissory Note (the “Note”) in favor of BankPlus. As security for the indebtedness due pursuant to the Note Seay pledged a 1993 Mack Truck Model RD6 VIN: 1M2P264C5PM013907 and a 2003 Freightliner Truck Model F80 VIN: 1FVHBXCS63HK44782 (collectively the “Trucks”) to BankPlus. BankPlus holds a valid, duly perfected, first lien security interest in the Trucks. Copies of the State of Mississippi Certificates of Title to the Trucks evidencing BankPlus’ security interest are attached as composite Exhibit “A” and incorporated herein by reference.

3. As of the date of the filing of the bankruptcy, the payoff balance on Seay’s debt to BankPlus pursuant to the Note was \$35,636.32. According to Debtors’ Chapter 13 plan filed in Case

No. 17-04367-NPO the combined value of the Trucks is \$30,000.00.

4. Debtors' Chapter 13 Plan (Docket No. 2) proposes to surrender the Trucks to BankPlus.

5. BankPlus has not received adequate protection as required by 11 U.S.C. §§ 361, 362, and 363. Additionally, there is no equity in the Trucks for the benefit of Debtors or the Estate and cause exists for the Court to terminate the automatic stay of 11 U.S.C. § 362 (a). The Trustee should be required to abandon the Trucks pursuant to 11 U.S.C. § 554. Pursuant to 11 U.S.C. § 1325(a)(5)(C) Debtors and the Estate should be required to surrender the Trucks to BankPlus. The stay provisions of Rule 4001 of the Federal Rules of Bankruptcy Procedure should be waived and not apply to the Court's order.

WHEREFORE, PREMISES CONSIDERED, BankPlus requests the Court to terminate the automatic stay of 11 U.S.C. § 362 to allow BankPlus to proceed to enforce its security interest and repossess and liquidate Debtors' 1993 Mack Truck Model RD6 VIN: 1M2P264C5PM013907 and 2003 Freightliner Truck Model F80 VIN: 1FVHBXCS63HK44782. BankPlus also requests that any interest of Debtors or the Estate in the Trucks be abandoned pursuant to 11 U.S.C. § 554 and that Debtors and the Estate be required to surrender the Trucks to BankPlus. Additionally, BankPlus requests that the stay provisions of Rule 4001 of the Federal Rules of Bankruptcy Procedure shall not apply to the Court's order. BankPlus requests the Court to grant such other relief as is necessary under the circumstances.

DATED: September 10, 2020.

Respectfully submitted,

BankPlus

BY: /s/ John S. Simpson

John S. Simpson
Its Attorney

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CERTIFICATE OF SERVICE

I certify that copies of the foregoing documents were served upon the following:

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by electronic notice, on September 10, 2020.

/s/ John S. Simpson

John S. Simpson